



DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1000, 1001, 1005, 1006, 1007, 1030, 1032, 1033, 1124, 1126 and 1131

[Doc. no. AMS-DA-09-0065; DA-09-04]

Federal Milk Marketing Orders; Section 610 Review

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of regulatory review and request for comments.

SUMMARY: This notice announces the Agricultural Marketing Service's (AMS) review of the Federal Milk Marketing Orders using the criteria contained in section 610 of the Regulatory Flexibility Act (RFA), as amended.

DATES: Written comments on this notice must be received by [INSERT DATE 60 DAYS AFTER PUBLICATION].

ADDRESSES: Interested persons are invited to submit comments concerning this notice of review by using the electronic process available at <http://www.regulations.gov>. Written comments may also be sent to Erin C. Taylor, Marketing Specialist, Order Formulation and Enforcement Branch, USDA/AMS/Dairy Programs, STOP 0231-Room 2971-S, 1400 Independence Avenue, SW, Washington, DC 20250-0231. All comments, which should reference the docket number and the date and page number of this issue of the **Federal Register**, will be made available for public inspection via www.regulations.gov, or during regular business hours.

FOR FURTHER INFORMATION CONTACT: Erin C. Taylor, USDA/AMS/Dairy Programs, Order Formulations and Enforcement Branch, Stop 0231-Room 2971-S, 1400

Independence Avenue, SW, Washington, DC 20250-0233, (202) 720-7311,

Erin.Taylor@ams.usda.gov.

SUPPLEMENTARY INFORMATION: The Federal milk marketing order (FMMO) program is authorized by the Agricultural Marketing Agreement Act of 1937 (Act), as amended (7 U.S.C. 601-674). It is designed to ensure a stable supply of fresh fluid milk for fluid processors and consumers. The program accomplishes this by providing a framework to make buying and selling milk a more orderly process thereby counteracting the inherent instability in the fluid milk markets.

A FMMO is a regulation issued by the Secretary of Agriculture that places certain requirements on the handling of milk for the fluid market in a geographic marketing area. It requires that handlers of milk for a marketing area pay no less than specified minimum class prices according to how the milk is used or classified. Class prices are determined by supply and demand conditions and the costs of serving alternative markets. A FMMO requires that payments for milk be combined and paid to individual farmers or cooperative associations of farmers on the basis of a uniform or average price for all milk sold. Thus, eligible farmers (producers) share the proceeds from all milk purchased by regulated handlers in the marketing area. There are 10 marketing orders regulating the handling of milk in the respective marketing areas. Approximately 60 percent of all milk marketed in the United States is marketed under Federal milk marketing orders.

The two principle objectives of the program are the classified pricing of products and the marketwide pooling of returns. A classified pricing plan sets forth minimum prices that handlers must pay for milk used in different classes of products. The program requires that Class I (bottled milk) demand always be met. The remaining milk produced is considered a reserve

supply that is needed to ensure daily fluctuations in Class I demand are always fulfilled. This reserve supply is made into manufactured products (Class II through Class IV) that are sold at prices related to the supply and demand for those products. Class II includes "soft" products such as cottage cheese, ice cream, and yogurt, while Class III and Class IV include the storable, "hard" manufactured products, such as cheese, butter, and nonfat dry milk. Classification is uniform throughout the order system.

Monthly prices for the four classes of milk are determined and announced to both buyers and sellers, providing a measure of predictability for economic decisions that facilitate orderly marketing. It is at these classified prices that regulated handlers account to the marketwide pool. Each marketing order maintains its own marketwide pool from which a uniform blend price is computed for all the milk sold within that marketing area. The blend price is paid to all farmers who sell milk under the regulations of the program regardless of how their milk is used.

The FMMO program also provides several other functions that benefit producers whose milk is regulated under the program. Federal orders have the authority to verify producer milk weights and component tests, a function that helps assure accurate and equitable payments for milk by regulated handlers. Producers also are assured of receiving timely payments for their milk since order provisions establish and enforce payment dates for milk purchases. In addition, Federal orders perform comprehensive audits to assure accurate reporting of how handlers utilize milk.

AMS published in the **Federal Register** a plan (64 FR 8014, February 18, 1999), and later an updated plan (71 FR 14827, March 24, 2006), to review certain regulations using criteria contained in section 610 of the RFA (5 U.S.C. 601-612). Given that many AMS regulations impact small entities, AMS decided as a matter of policy to review certain regulations which,

although they may not meet the threshold requirement under section 610 of the RFA, warrant review. Accordingly, this notice and request for comments is made for the FMMO program.

The purpose of the review is to determine whether the FMMO program should be continued without change, amended, or rescinded (consistent with the objectives of the Act) to minimize any significant economic impact of rules upon a substantial number of small entities. AMS will consider the continued need for the FMMO program; the nature of complaints or comments received from the public concerning the FMMO program; the complexity of the FMMO program; the extent to which the FMMO program overlaps, duplicates, or conflicts with other Federal rules, and, to the extent feasible, with State and local government rules; and the length of time since the FMMO program has been evaluated or the degrees to which technology, economic conditions, or other factors have changes in the area affect by the FMMO program.

Written comments, views, opinions, and other information regarding the FMMO program's impact on small businesses are invited.

Dated: February 6, 2015.

Rex A. Barnes
Associate Administrator
Agricultural Marketing Service

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